

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**JASON ALEXANDER WARREN,**

**Plaintiff,**

**v.**

**Case No. 12-CV-777**

**EDWARD FLYNN, JOHN DOES,  
and LT. GONZALEZ,**

**Defendants.**

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**SCREENING ORDER**

On October 12, 2012, I screened the original complaint, found that it did not contain sufficient facts to state a plausible claim under 42 U.S.C. § 1983, and directed plaintiff to file an amended complaint curing the deficiency. Plaintiff has filed an amended complaint which I will now screen under 28 U.S.C. § 1915A(a).

According to the amended complaint, on May 9, 2012, while an inmate at the Milwaukee County Jail, defendants John Doe 1, John Doe 2, and Lieutenant Gonzalez repeatedly kicked plaintiff until he was bruised and bleeding. The officers then pulled plaintiff's pants down to his ankles and left them there – his arms and legs were shackled at the time. The physical abuse continued until plaintiff was placed in pod 4D. Plaintiff asserts that he suffered physical and psychological damage due to the officers' abuse. He claims that defendants violated his rights under the Eighth Amendment and is seeking monetary damages.

Plaintiff states an excessive force claim against Lieutenant Gonzalez and the John Doe defendants, under either the Eighth Amendment (if he was a prisoner) or the

Fourteenth Amendment (if he was pretrial detainee). Plaintiff should use discovery to identify the names of the John Doe defendants.

The amended complaint does not state a claim against defendant Edward Flynn because plaintiff does not allege that he was personally involved in the incident. See Burks v. Raemisch, 555 F.3d 592, 595-96 (7th Cir. 2009). Thus, Chief Flynn will be dismissed.

**IT IS THEREFORE ORDERED** that defendant Edward Flynn is **DISMISSED**.

**IT IS FURTHER ORDERED** that that the United States Marshal shall serve a copy of the amended complaint (Docket #16) and this order upon defendants pursuant to Federal Rule of Civil Procedure 4. Plaintiff is advised that Congress requires the U.S. Marshals Service to charge for making or attempting such service. 28 U.S.C. § 1921(a). The current fee for waiver-of-service packages is \$8.00 per item mailed. The full fee schedule is provided at 28 C.F.R. §§ 0.114(a)(2), (a)(3). Although Congress requires the court to order service by the U.S. Marshals Service precisely because in forma pauperis plaintiffs are indigent, it has not made any provision for these fees to be waived either by the court or by the U.S. Marshals Service.

**IT IS ALSO ORDERED** that defendants shall file a responsive pleading to the amended complaint.

**IT IS ALSO ORDERED** that a copy of this order be sent to Corey F. Finkelmeyer, Assistant Attorney General, Wisconsin Department of Justice, P.O. Box 7857, Madison, Wisconsin, 53707-7857.

Dated at Milwaukee, Wisconsin, this 12th day of February, 2013.

s/ Lynn Adelman

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LYNN ADELMAN  
District Judge